

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DANA PENNY,)
Plaintiff,) Civil Action No. 14 - 3
v.) Chief Magistrate Judge Lisa Pupo Lenihan
UNITED STATES OF AMERICA,)
Defendant.)

ORDER

Plaintiff has submitted for filing a Petition for a Writ of Mandamus seeking an order directing the Bureau of Prisons to release him from custody alleging that he is being illegally detained after he successfully completed his sentence on December 16, 2013. Because of the nature of relief that Plaintiff is seeking, the petition will be construed as a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. However, Plaintiff did not submit the \$5.00 filing fee or a motion for leave to proceed *in forma pauperis* and the Clerk of Court cannot file his petition until he does so. Accordingly,

IT IS HEREBY ORDERED that the Petition for Writ of Mandamus is construed as a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.

IT IS FURTHER ORDERED that Plaintiff shall pay the \$5.00 filing fee or complete and return the enclosed Motion for Leave to Proceed *in forma pauperis* within fourteen (14) days of the date of this Order.

IT IS FURTHER ORDERED that the Clerk of Court administratively close this case until the filing fee has been paid or Plaintiff has submitted a motion for leave to proceed *in forma pauperis*.

IT IS FURTHER ORDERED that Plaintiff shall complete and return the enclosed form indicating whether he consents to jurisdiction by United States Magistrate Judge or wishes that a District Judge be assigned to this case.

Dated: January 6, 2014.

/s/ Lisa Pupo Lenihan
Lisa Pupo Lenihan
Chief United States Magistrate Judge

cc: Dana Penny
07908-068
NEOCC
2240 Hubbard Rd.
Youngstown, OH 44505